IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 19183 of 1993

Between:

Times Watches Limited, B 190, Nodia, Phase II, Gaziabad-201 305 (U.P), rep. By its Power of Attorney Holder (Authorised Signatory) T.Srinivasa Murthy

..... PETITIONER

AND

1. The Inspector, Legal Metrology (Weights & Measures) Guntur Rural, Guntur-522001

2. The Government of A.P., rep. by its Chief Secretary, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue

a. a writ declaring that the sale of the petitioner's goods sold in plastic boxes or containers do not attract the provisions of the standards of Weights & Measures Act, 1976 and or of the Stardis of weights & Measures (Packaged Commodities) Rules, 1977.

b. a writ of Certiorari or prohibit on or such other appropriate writ or direction as this court may deem fit and proper, pending disposal of this W.P., stay all further proceedings under the standard of Weights & Measures Act

c. declare that the impugned notice dated 16.10.1993 (Annexure-1) issued by the respondents and the seizure effected on 14-5-1993 are illegal, null and void and return the seized watches to the petitioner forthwith

d. grant such other reliefs as this court may deem fit in a liability of the

costs of the petition.

Counsel for the Petitioner:MR.LEO RAJ

Counsel for the Respondent Nos.1 & 2:G.P. FOR CIVIL SUPPLIES .

The Court made the following :

O R D E R:

This writ petition is filed to declare that the sale of petitioner's goods sold in plastic boxes or containers do not attract the provisions of the standards of Weights & Measures Act, 1976 or the standards of Weights & Measures (Packaged

Commodities) Rules, 1977 and also declare that the impugned notice dated 16.10.1993 (Annexure-!) issued by the respondents and the seizure effected on 14-5-1993 are null and void, and return the seized watches to the petitioner forthwith. The petitioner also sought for an interim direction to stay all further proceedings issued under the standards of Weights & Measures Act, 1976.

On 20.12.1993 this Court granted interim stay of all further proceedings, which emanate from the notice, dated 16.10.1993 under the standards of Weights & Measures Act, issued by the respondents.

It is the case of the petitioner that on 16.10.1993, 1st respondent-Inspector, Legal Metrology (Weights & Measures) Guntur issued a notice to the petitioner bearing No.87/93-94 under Section 73 of the Act, alleging that the petitioner has violated the provisions of Section 39 of the Act read with Rule-4, 6(1) and 2 (r) of the Act & Rules. In the notice issued to the petitioner it was informed that the Inspector, Legal Metrology (Weights & Measures) Flying Squad, Hyderabad, inspected the trading premises of M/s. Priya Agencies, Arandalpet, 12th line, Guntur on 14.05.1993 wherein the packages manufactured by M/s.Timex Watches Ltd., Ratna Commercials 40-1-142 (A) Manoranjan Complex, V.Puram, M.G.Road, Vijayawada-5 & B-190 Phase II Noida Gaziabad are stored for sale and being sold. It was also informed that three packages of Gimmix by Timex No.JA model manufactured by Timex Watches Ltd., B-190 Phase II Nodia Gziabad and supplied by Timex Watches Limited, Vijayawada manufactured by the said manufacturer were inspected. The packages does not bear the name and address of the manufacturer, identity of the commodity contained in the packages, month and year of manufacturing and the retail sale price of the package, but a sticker which carried the declaration Rs.395/- is affixed on the package. The sticker does not contain the monogram (trademark) or name of the manufacturer as required under Rule 4 of Packaged Commodities Rules 1977. As such, the said packages were seized under Section 29 of the Act.

Thus, M/s. Timex Watches Limited, Gaziabad (U.P.) have contravened Section 39 of the Act, Rule 4 read with Rule 6(i) & 2 (r) of the Rules and committed an offence punishable under Section 63 of the Act & Rule 39 of the Rules. It is also stated in the said notice that the said offence is compoundable under Section 73 of the Act. If they wish to get the offence compounded instead of being tried in a court of Law, they may do so by paying the necessary Compounding Fees of Rs.2,000/- at this office within ten days from the date of receipt of the notice, otherwise, it will be presumed that they do not wish to get the offence compounded, otherwise, the case will be filed in the court of Law.

The petitioner submitted a representation, inter-alia, stating that he has not violated any of the provisions of the Act and more over, the commodities with which the petitioner is dealt with, does not fall within the para meters of the provisions and the Rules purported in the show cause notice. In spite of the representation submitted by the petitioner, no action was taken by the respondents. Hence, this writ petition is filed.

In the affidavit filed in support of the writ petition, the petitioner categorically stated that since the provisions referred to in the notice, dated 16.10.1993 does not attract the business affairs of the petitioner, the respondents have no jurisdiction to invoke their powers with reference to the activities or the business of the petitioner. In paragraph 5 of the affidavit it is also mentioned that in similar circumstances in respect of its associate company, namely, Titan Watches Limited, filed W.P.No.9205 of 1993 and obtained necessary orders in the matter.

When the matter is listed for Final Hearing, it has been brought to the notice of this court that a similar matter in W.P. NO.9205 of 2003 has been allowed by this court by judgment, dated 02.01.2003, which was reported in ***A.P.TITN WATCHES LTD., VS. SR. INSPECTOR, LEGAL METROLOGY W.& M DEPT..*** On a fair reading of the judgment of this Court it is seen that the facts of the case on hand are similar to

that of W.P.No.9205 of 2003.

In view of the above, this writ petition is allowed in terms of the decision rendered by this court reported in ***A.P.TITN WATCHES LTD., VS. SR. INSPECTOR, LEGAL METROLOGY W.& M DEPT.*** (Supra-1). The impugned notice, dated 16.10.1993 is set aside. No costs.

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G.CHANDRAIAH J.,

Dt.12.07.2005

tjs

To

1. The Inspector, Legal Metrology (Weights & Measures) Guntur Rural, Guntur-522001.
2. Chief Secretary, Government of A.P., Hyderabad.
3. 2 C.Cs to the G.O. for Civil Supplies.

4 2 CD copies..